

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

AMBERWAVE SYSTEMS CORPORATION,	)	
	)	Civil Action No. 05-837-KAJ
Plaintiff,	)	
	)	
v.	)	
	)	
INTEL CORPORATION,	)	
	)	
Defendant.	)	
	)	
INTEL CORPORATION,	)	Civil Action No. 05-682-KAJ
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
AMBERWAVE SYSTEMS CORPORATION,	)	
	)	
Defendant.	)	
	)	
INTEL CORPORATION,	)	Civil Action No. 05-301-KAJ
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
AMBERWAVE SYSTEMS CORPORATION,	)	
	)	
Defendant.	)	
	)	

AMBERWAVE SYSTEMS CORPORATION,	)
	)
Counterclaimant,	)
	)
v.	)
	)
INTEL CORPORATION,	)
	)
Counterdefendant.	)
	)

**STIPULATION AND CONSOLIDATION ORDER**

WHEREAS, on May 17, 2005, Intel Corporation ("Intel") commenced an action in this Court against AmberWave Systems Corporation ("AmberWave") captioned *Intel Corporation v. AmberWave Systems Corporation*, Civil Action No. 05-301-KAJ, seeking a declaration that none of its devices or systems infringes AmberWave's United States Patent No. 6,831,292 (the "'292 Action");

WHEREAS, on July 15, 2005, AmberWave commenced an action in the United States District Court for the Eastern District of Texas against Intel captioned *AmberWave Systems Corporation v. Intel Corporation*, Civil Action No. 2-05CV-321, alleging that certain computer processor products that Intel made, used, offered to sell, sold, and/or imported infringed AmberWave's United States Patent No. 6,881,632 (the "'632 Action");

WHEREAS, on September 20, 2005, Intel commenced an action in this Court against AmberWave captioned *Intel Corporation v. AmberWave Systems Corporation*, Civil Action No. 05-682-KAJ, seeking a declaration that none of its devices or systems infringes AmberWave's United States Patent No. 6,946,371, otherwise known as the "'371 Patent" (the "Intel '371 Action");

WHEREAS, on September 20, 2005, AmberWave commenced an action in the United States District Court for the Eastern District of Texas captioned *AmberWave Systems Corporation v. Intel Corporation*, Civil Action No. 2-05CV-449, alleging that certain computer processor products that Intel made, used, offered to sell, sold, and/or imported infringed the '371 Patent (the "AmberWave '371 Action");

WHEREAS, by order dated November 1, 2005, the United States District Court for the Eastern District of Texas transferred the '632 Action to this Court, and the case was designated Civil Action No. 05-837-KAJ;

WHEREAS, on November 29, 2005, this Court granted Intel's motion to supplement its complaint in the '292 Action to seek a declaration that none of its devices or systems infringes the '371 Patent;

WHEREAS, the parties have agreed to withdraw without prejudice the AmberWave '371 Action and the Intel '371 Action, respectively;

and

WHEREAS, the parties believe that consolidation of the '632 Action and the '292 Action is appropriate;

THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between Intel and AmberWave as follows:

1. Consolidation Of Actions: The '632 Action shall be consolidated with the '292 Action for all purposes, including trial (the "Consolidated Action"). All discovery conducted to date in the '632 Action and the '292 Action shall be treated as having been conducted in the Consolidated Action; provided that neither party intends to limit or waive any rights or objections it may have with regard to further discovery on the parties to the Consolidated Action

or on third-parties. Papers in the Consolidated Action shall be filed and docketed solely in Civil Action No. 05-301-KAJ. Upon entry of this Stipulation and Consolidation order by the Court, all filing in the Consolidated Action shall bear the following caption:

AMBERWAVE SYSTEMS CORPORATION,	)	
	)	Civil Action No. 05-301-KAJ
	)	(consolidated)
Plaintiff,	)	
	)	
v.	)	
	)	
INTEL CORPORATION,	)	
	)	
Defendant.	)	

2. Filing Of Amended Complaint: Not later than twenty-one days after the Court's entry of this Stipulation and Consolidation Order, AmberWave shall file an amended, consolidated complaint in the Consolidated Action. AmberWave's claims for infringement of the '371 patent shall relate back to at least September 20, 2005, the date of filing of the AmberWave '371 Action. Intel shall file its response twenty days thereafter.

3. Withdrawal Of '371 Actions: Not later than three days after the filing of the consolidated complaint in the Consolidated Action, AmberWave will withdraw without prejudice the AmberWave '371 Action and Intel will withdraw without prejudice the Intel '371 Action pursuant to the forms of dismissal attached as Exhibits A and B to this Stipulation and Consolidation Order. AmberWave's withdrawal of the AmberWave '371 Action and Intel's withdrawal of the Intel '371 Action are without prejudice to each party's respective rights and/or remedies, if any, as of September 20, 2005 so that each party may pursue any and all rights and remedies available to it with regard to the '371 Patent in the Consolidated Action.

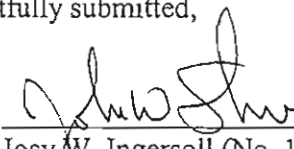
4. Additional Claims: If AmberWave elects to file an action against Intel alleging infringement of the patent that issues from United States Patent Application No. 10/774,890, entitled "Relaxed SiGe Platform for High Speed CMOS Electronics and High-Speed Analog Circuits" (the "'890 application"), AmberWave shall do so by filing an amended complaint in the Consolidated Action asserting such claim within three business days of the issuance of the patent from the '890 application. AmberWave shall not file an action against Intel alleging infringement of the '890 patent in any other court. Intel hereby consents to the filing of an amended complaint in the Consolidated Action alleging that Intel infringes the patent that issues from the '890 application.

Dated: February 2, 2006

OF COUNSEL  
George M. Newcombe  
SIMPSON THACHER & BARTLETT LLP  
3330 Hillview Avenue  
Palo Alto, California 94304

Respectfully submitted,

By:

  
\_\_\_\_\_  
Josy W. Ingersoll (No. 1088)  
John W. Shaw (No. 3362)  
YOUNG CONAWAY STARGATT &  
TAYLOR, LLP  
The Brandywine Building, 17<sup>th</sup> Floor  
1000 West Street  
Wilmington, Delaware 19801

Attorneys for Intel Corporation

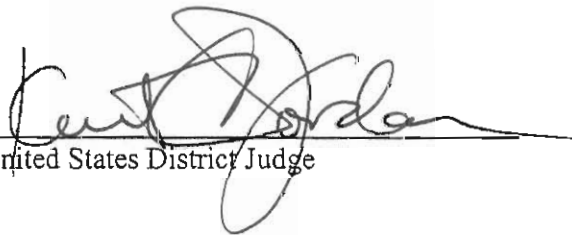
OF COUNSEL

Morgan Chu  
IRELL & MANELLA LLP  
1800 Avenue of the Stars, Suite 900  
Los Angeles, California 90067

By: /s/ Jack B. Blumenfeld  
Jack B. Blumenfeld (#1014)  
Leslie A. Polizoti (#4299)  
MORRIS, NICHOLS, ARSHT &  
TUNNELL LLP  
1201 N. Market Street  
P.O. Box 1347  
Wilmington, Delaware 19899

Attorneys for AmberWave Systems  
Corporation

SO ORDERED this 6<sup>th</sup> day of Feb., 2006,

  
United States District Judge

**TAB A**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

INTEL CORPORATION,	)	
	)	
Plaintiff,	)	Civil Action No. 05-682-KAJ
	)	
vs.	)	
	)	
AMBERWAVE SYSTEMS CORPORATION,	)	
	)	
Defendant.	)	
	)	

**STIPULATED ORDER OF DISMISSAL WITHOUT PREJUDICE**

IT IS HEREBY STIPULATED, by and between Intel Corporation ("Intel") and AmberWave Systems Corporation ("AmberWave") that the Court enter the following Stipulated Order of Dismissal, which shall be binding upon them:

1. Intel's claims against AmberWave are hereby dismissed without prejudice.
2. Intel and AmberWave shall bear their own costs and attorneys' fees in connection with this action. In addition, Intel and AmberWave waive any and all rights to appeal this Stipulated Order of Dismissal.

Dated: February 2, 2006

Respectfully submitted,

OF COUNSEL  
George M. Newcombe  
SIMPSON THACHER & BARTLETT LLP  
3330 Hillview Avenue  
Palo Alto, California 94304

By: \_\_\_\_\_  
Josy W. Ingersoll (No. 1088)  
John W. Shaw (No. 3362)  
YOUNG CONAWAY STARGATT &  
TAYLOR, LLP  
The Brandywine Building, 17<sup>th</sup> Floor  
1000 West Street  
Wilmington, Delaware 19801

Attorneys for Plaintiff Intel Corporation



OF COUNSEL  
Morgan Chu  
IRELL & MANELLA LLP  
1800 Avenue of the Stars, Suite 900  
Los Angeles, California 90067

By: /s/ Jack B. Blumenfeld  
Jack B. Blumenfeld (#1014)  
Leslie A. Polizoti (#4299)  
MORRIS, NICHOLS, ARSHT, &  
TUNNELL LLP  
1201 N. Market Street  
P.O. Box 1347  
Wilmington, Delaware 19899

Attorneys for Defendant AmberWave  
Systems Corporation

**ORDER**

Pursuant to the Stipulation between Intel and AmberWave, IT IS ORDERED, ADJUDGED AND DECREED THAT:

1. Intel's claims against AmberWave are hereby dismissed without prejudice;
2. Intel and AmberWave shall bear their own costs and attorneys' fees in connection with this action. In addition, Intel and AmberWave waive any and all rights to appeal this Stipulated Order of Dismissal.

Dated: February \_\_, 2005

\_\_\_\_\_  
United States District Court Judge

**TAB B**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

AMBERWAVE SYSTEMS CORPORATION, §

Plaintiff,

vs.

INTEL CORPORATION,

Defendant.

Civil Action No. 2-05CV-449-TJW

Jury

**JOINT MOTION TO DISMISS WITHOUT PREJUDICE**

Intel Corporation ("Intel") and AmberWave Systems Corporation ("AmberWave") jointly move the Court to enter the attached Order of Dismissal, pursuant to Federal Rule of Civil Procedure 41(a)(2), and in support will show the Court as follows.

AmberWave has agreed to dismiss its claims against Intel without prejudice.

Intel and AmberWave have agreed to bear their own costs and attorneys' fees in connection with this action. In addition, Intel and AmberWave waive any and all rights to appeal the Order of Dismissal, attached to this motion.

Based on the foregoing, Intel and AmberWave respectfully move the Court to grant their Joint Motion to Dismiss this action without prejudice.

Dated: February \_\_, 2006

Respectfully submitted,

OF COUNSEL

Morgan Chu  
IRELL & MANELLA LLP  
1800 Avenue of the Stars, Suite 900  
Los Angeles, California 90067-4276

By: \_\_\_\_\_

S. Calvin Capshaw III  
Texas Bar No. #03783900)  
BROWN MCCARROLL LLP  
1127 Judson Road, Suite 220  
P.O. Box 3999  
Longview, Texas 75601-5157  
Phone: (903) 236-9800  
Facsimile: (903) 236-8787  
E-mail: CCapshaw@mailbmc.com

Attorneys for Plaintiff AmberWave  
Systems Corporation

OF COUNSEL  
George M. Newcombe  
SIMPSON THACHER & BARTLETT LLP  
3330 Hillview Avenue  
Palo Alto, California 94304

By: \_\_\_\_\_  
Michael E. Jones  
Texas Bar No. 10929400  
POTTER MINTON, PC  
100 North College  
500 Plaza Tower  
Tyler, Texas 75702  
mikejones@potterminton.com  
Telephone: (903) 597-8311  
Facsimile: (903) 593-0846

Attorneys for Defendant Intel  
Corporation

**CERTIFICATE OF SERVICE**

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served this \_\_\_\_\_ day of \_\_\_\_\_, 2006, with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3). Any other counsel of record will be served by, electronic mail, facsimile transmission and/or first class mail on this same date.

\_\_\_\_\_

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

AMBERWAVE SYSTEMS CORPORATION, §

Plaintiff,

vs.

INTEL CORPORATION,

Defendant.

Civil Action No. 2-05CV-449-TJW

Jury

**ORDER OF DISMISSAL**

Before the Court is the Joint Motion to Dismiss without Prejudice, filed by the parties pursuant to Federal Rule of Civil Procedure 41(a)(2) in the above referenced matter. The Court is of the opinion that the motion is well taken and should be granted.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED THAT:

1. AmberWave's claims against Intel are hereby dismissed without prejudice;
2. Intel and AmberWave shall bear their own costs and attorneys fees in connection with this action. In addition, Intel and AmberWave waive any and all rights to appeal this Order of Dismissal.